

# Decision

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## Decision not to proceed with proposed addition of Section F to Generation Licence

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We proposed a potential modification to the current Generation Licence to include a new section, Section F, which would add clarity on the treatment of assets dedicated to providing network services.

Following consultation and further analysis, we have determined not to proceed with this proposed modification. This document sets out the rationale for that decision.

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## Introduction

### Context and related publications

The Great Britain (“GB”) electricity system is undergoing change. A shift from traditional fossil fuel powered synchronous generation to asynchronously connected renewable generation is underway. The GB Electricity System Operator (“ESO”) has identified that this has led to a reduction in the availability of network services such as inertia, short circuit infeed and reactive power.

To gain access to additional sources of these services in support of the transition to a zero carbon electricity system and ensure lowest cost to the consumer by procuring them, the ESO ran Network Service Procurement (“NSP”) activities<sup>1</sup> where it tendered for certain services.

The ESO has since contracted with multiple parties for the provision of network services and some sought licences. We granted licences to some of these providers, and continue to assess applications for licences in line with our usual processes. We recognised that the current licences had not been prepared with this set of assets in mind, hence we proposed to provide additional clarity through this modification.

### Our decision-making process

We have held multiple engagements with industry stakeholders to get to this decision. We thank all parties who provided input to any of the stages listed below.

### Decision-making stages

Date	Stage description
31/05/2022	Stage 1: Call for Input Closed
10/03/2024	Stage 2: Initial Consultation Closed
27/05/2024	Stage 3: Statutory Consultation Closed
04/09/2024	Stage 4: Responses reviewed and published
04/09/2024	Stage 5: Consultation decision published

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<sup>1</sup> More detail on the ESO’s NSP activities is available at: <https://www.nationalgrideso.com/industry-information/balancing-services/network-services-procurement>

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**General feedback**

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this report. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments

Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk) address.

# 1. Decision and Decision Rationale

## Decision

- 1.1 In relation to the proposed modification of the Generation Licence to introduce a new section, Section F: Supplementary Conditions for Assets Dedicated to Network Service Provision, we have decided **not** to proceed with the modification.
- 1.2 Following review of consultation responses and our own further analysis, we have determined that to make the proposed modification<sup>2</sup> in this manner would extend beyond Ofgem’s legal powers under the Electricity Act 1989.
- 1.3 We still consider that continued evaluation of the appropriate licence treatment of dedicated to network service provision is important and intend to publish the outcome of a broader review later this year. We understand that feedback to both our Statutory Consultation and Initial Consultation indicates that there is broad support for our intended outcomes on this area of policy.

## Assessment of Responses to Statutory Consultation

- 1.4 We asked three questions in our statutory consultation:
- Do you agree with inclusion via creation of new section within the licence?
  - Do you agree with the proposed wording for inclusion of licence conditions F1 and F2?
  - Do you have any other comments relevant to the scope of this proposed modification?
- 1.5 We received three responses to the Statutory Consultation, and these have been published on our website.<sup>3</sup> We are grateful for the valuable engagement of the parties who responded to our Statutory Consultation and our Initial Consultation on this topic.
- 1.6 All three respondents stated support for the reasons we provided for proposing this modification. Further, one respondent specifically provided support for

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<sup>2</sup> Specifically, the inclusion of the proposed clause F2 would have extended the compulsory purchase provisions in the licence beyond what is permitted by the Electricity Act.

<sup>3</sup> Accessible at: <https://www.ofgem.gov.uk/consultation/statutory-consultation-addition-section-f-generation-licence-standard-conditions>

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making the modification through addition of a new section as this would maintain consistency with previous approaches.

1.7 However, there were questions about the implementation of this modification, mainly around:

- the legal power Ofgem that has to extend powers as we proposed to through Condition F2; and
- the lack of a *de minimis* value for network service provision for Condition F2 to apply and our reliance instead on contracts provided by the ESO.

1.8 We have considered this feedback and furthered our own analysis.

1.9 We have agreed that implementing our change in this manner would be an extension beyond the powers allowed by the Electricity Act 1989 and therefore propose not to make the modification.

1.10 We consider that points made around *de minimis* values and limiting to ESO contracted units have merit. We had already accounted for this in our initial assessment and following our initial consultation. However, we confirm that following this repeated feedback we will continue to assess this position in our broader review work and consider whether it is viable and necessary to set a *de minimis* value should we propose to introduce a definition in future.